

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 10, 2011

SENATE BILL

No. 740

Introduced by Senator Hancock
(Coauthor: Assembly Member Huffman)

February 18, 2011

An act to amend, repeal, and add Sections 60603, 60604, 60605.6, 60640, 60642.5, 60643, and 60643.1 of, and to add Section 60644 to, the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

SB 740, as amended, Hancock. Pupil assessment.

Existing law, the Leroy Greene California Assessment of Academic Achievement Act, requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, certain achievement tests.

This bill, commencing July 1, 2012, would exclude pupils in grade 2 from the standards-based achievement test requirement and make conforming changes.

The bill would require the State Department of Education by July 1, 2014, to ~~develop at least 3~~ *identify and make available to school districts information regarding existing* assessments in language arts and mathematics for pupils in grade 2 for diagnostic use by classroom teachers. ~~The bill would authorize the department to select those assessments instead of developing them if the department determines that suitable diagnostic assessments exist.~~ The bill would require these provisions to be implemented from the savings realized from the elimination of the grade 2 standards-based achievement testing.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. The Legislature finds and declares as follows:~~

~~(a) Research shows that statewide standardized testing for young children under nine years of age is not age and developmentally appropriate and does not provide meaningful, valid, and reliable data.~~

~~(b) Testing of pupils in grade 2 is not federally mandated.~~

~~(c) The testing of nearly 465,000 pupils in grade 2 each year at a cost of approximately \$2.5 million annually does not significantly benefit the schools, pupils, parents, guardians, or teachers by providing reliable or instructionally useful data but rather creates harmful unintended consequences.~~

~~(d) Approximately 40 states do not require statewide standardized testing in grade 2.~~

~~(e) Parents, educators, psychologists, and educational research organizations, oppose high-stakes testing of young children under nine years of age.~~

~~(f) The method of administering standards tests to pupils in grades 3 to 11, inclusive, is in written form, and the grade 2 standards test is predominantly orally delivered. The accuracy of test results of pupils in grade 2 is eroded, and the resulting data used for accountability purposes is less reliable for the pupils in grade 2.~~

~~(g) Eliminating the testing of pupils in grade 2 will not weaken the assessment and accountability system of the state public schools, but instead will make that system more accurate, effective, and efficient.~~

~~SEC. 2.~~

~~SECTION 1. Section 60603 of the Education Code is amended to read:~~

~~60603. (a) As used in this chapter:~~

~~(1) "Achievement test" means any standardized test that measures the level of performance that a pupil has achieved in the core curriculum areas.~~

~~(2) "Assessment of applied academic skills" means a form of assessment that requires pupils to demonstrate their knowledge~~

of, and ability to apply, academic knowledge and skills in order to solve problems and communicate. It may include, but is not limited to, writing an essay response to a question, conducting an experiment, or constructing a diagram or model. An assessment of applied academic skills may not include assessments of personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(3) “Basic academic skills” means those skills in the subject areas of reading, spelling, written expression, and mathematics that provide the necessary foundation for mastery of more complex intellectual abilities, including the synthesis and application of knowledge.

(4) “Content standards” means the specific academic knowledge, skills, and abilities that all public schools in this state are expected to teach and all pupils expected to learn in each of the core curriculum areas, at each grade level tested.

(5) “Core curriculum areas” means the areas of reading, writing, mathematics, history-social science, and science.

(6) “Diagnostic assessment” means interim assessments of the current level of achievement of a pupil that serves both of the following purposes:

(A) The identification of particular academic standards or skills a pupil has or has not yet achieved.

(B) The identification of possible reasons that a pupil has not yet achieved particular academic standards or skills.

(7) “Direct writing assessment” means an assessment of applied academic skills that requires pupils to use written expression to demonstrate writing skills, including writing mechanics, grammar, punctuation, and spelling.

(8) “End of course exam” means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline.

(9) “Performance standards” are standards that define various levels of competence at each grade level in each of the curriculum areas for which content standards are established. Performance standards gauge the degree to which a pupil has met the content standards and the degree to which a school or school district has met the content standards.

(10) “Publisher” means a commercial publisher or any other public or private entity, other than the department, which is able

1 to provide tests or test items that meet the requirements of this
2 chapter.

3 (11) “Statewide pupil assessment program” means the systematic
4 achievement testing of pupils in grades 2 to 11, inclusive, pursuant
5 to the standardized testing and reporting program under Article 4
6 (commencing with Section 60640) and the assessment of basic
7 academic skills and applied academic skills, administered to pupils
8 in grade levels specified in subdivision (c) of Section 60605,
9 required by this chapter in all schools within each school district
10 by means of tests designated by the state board.

11 (b) This section shall become inoperative on July 1, 2012, and,
12 as of January 1, 2013, is repealed, unless a later enacted statute,
13 that becomes operative on or before January 1, 2013, deletes or
14 extends the dates on which it becomes inoperative and is repealed.

15 ~~SEC. 3.~~

16 *SEC. 2.* Section 60603 is added to the Education Code, to read:

17 60603. (a) As used in this chapter:

18 (1) “Achievement test” means any standardized test that
19 measures the level of performance that a pupil has achieved in the
20 core curriculum areas.

21 (2) “Assessment of applied academic skills” means a form of
22 assessment that requires pupils to demonstrate their knowledge
23 of, and ability to apply, academic knowledge and skills in order
24 to solve problems and communicate. It may include, but is not
25 limited to, writing an essay response to a question, conducting an
26 experiment, or constructing a diagram or model. An assessment
27 of applied academic skills may not include assessments of personal
28 behavioral standards or skills, including, but not limited to, honesty,
29 sociability, ethics, or self-esteem.

30 (3) “Basic academic skills” means those skills in the subject
31 areas of reading, spelling, written expression, and mathematics
32 that provide the necessary foundation for mastery of more complex
33 intellectual abilities, including the synthesis and application of
34 knowledge.

35 (4) “Content standards” means the specific academic knowledge,
36 skills, and abilities that all public schools in this state are expected
37 to teach and all pupils expected to learn in each of the core
38 curriculum areas, at each grade level tested.

39 (5) “Core curriculum areas” means the areas of reading, writing,
40 mathematics, history-social science, and science.

1 (6) “Diagnostic assessment” means interim assessments of the
2 current level of achievement of a pupil that serves both of the
3 following purposes:

4 (A) The identification of particular academic standards or skills
5 a pupil has or has not yet achieved.

6 (B) The identification of possible reasons that a pupil has not
7 yet achieved particular academic standards or skills.

8 (7) “Direct writing assessment” means an assessment of applied
9 academic skills that requires pupils to use written expression to
10 demonstrate writing skills, including writing mechanics, grammar,
11 punctuation, and spelling.

12 (8) “End of course exam” means a comprehensive and
13 challenging assessment of pupil achievement in a particular subject
14 area or discipline.

15 (9) “Performance standards” are standards that define various
16 levels of competence at each grade level in each of the curriculum
17 areas for which content standards are established. Performance
18 standards gauge the degree to which a pupil has met the content
19 standards and the degree to which a school or school district has
20 met the content standards.

21 (10) “Publisher” means a commercial publisher or any other
22 public or private entity, other than the department, which is able
23 to provide tests or test items that meet the requirements of this
24 chapter.

25 (11) “Statewide pupil assessment program” means the systematic
26 achievement testing of pupils in grades 3 to 11, inclusive, pursuant
27 to the standardized testing and reporting program under Article 4
28 (commencing with Section 60640) and the assessment of basic
29 academic skills and applied academic skills, administered to pupils
30 in grade levels specified in subdivision (c) of Section 60605,
31 required by this chapter in all schools within each school district
32 by means of tests designated by the state board.

33 (b) This section shall become operative on July 1, 2012.

34 ~~SEC. 4.~~

35 *SEC. 3.* Section 60604 of the Education Code is amended to
36 read:

37 60604. (a) The Superintendent shall design and implement,
38 consistent with the timetable and plan required pursuant to
39 subdivision (b), a statewide pupil assessment program consistent
40 with the testing requirements of this article in accordance with the

objectives set forth in Section 60602. That program shall include all of the following:

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the state board that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting (STAR) Program established by Article 4 (commencing with Section 60640).

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive.

(3) Statewide academically rigorous content and performance standards that reflect the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the state board.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the state board.

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program.

(7) The development of a contract or contracts with a publisher or publishers, after the approval of statewide academically rigorous content standards by the state board, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

(b) The Superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in

1 subdivision (a). The annual update shall be submitted on or before
2 March 1 of each year to the chairperson of the fiscal subcommittee
3 considering budget appropriations in each house. The update shall
4 explain any significant variations from the five-year cost projection
5 for the current year budget and the proposed budget.

6 (c) The Superintendent shall provide each school district with
7 guidelines for professional development that are designed to assist
8 classroom teachers to use the results of the assessments
9 administered pursuant to this chapter to modify instruction for the
10 purpose of improving pupil learning. These guidelines shall be
11 developed in consultation with classroom teachers and approved
12 by the state board before dissemination.

13 (d) The Superintendent and the state board shall consider
14 comments and recommendations from school districts and the
15 public in the development, adoption, and approval of assessment
16 instruments.

17 (e) The results of the achievement test administered pursuant
18 to Article 4 (commencing with Section 60640) shall be returned
19 to the school district within the period of time specified by the
20 state board.

21 (f) This section shall become inoperative on July 1, 2012, and,
22 as of January 1, 2013, is repealed, unless a later enacted statute,
23 that becomes operative on or before January 1, 2013, deletes or
24 extends the dates on which it becomes inoperative and is repealed.

25 ~~SEC. 5.~~

26 *SEC. 4.* Section 60604 is added to the Education Code, to read:

27 60604. (a) The Superintendent shall design and implement,
28 consistent with the timetable and plan required pursuant to
29 subdivision (b), a statewide pupil assessment program consistent
30 with the testing requirements of this article in accordance with the
31 objectives set forth in Section 60602. That program shall include
32 all of the following:

33 (1) A plan for producing valid, reliable, and comparable
34 individual pupil scores in grades 3 to 11, inclusive, and a
35 comprehensive analysis of these scores based on the results of the
36 achievement test designated by the state board that assesses a broad
37 range of basic academic skills pursuant to the Standardized Testing
38 and Reporting (STAR) Program established by Article 4
39 (commencing with Section 60640).

1 (2) A method of working with publishers to ensure valid,
2 reliable, and comparable individual, grade-level, school-level,
3 district-level, county-level, and statewide scores in grades 3 to 11,
4 inclusive.

5 (3) Statewide academically rigorous content and performance
6 standards that reflect the knowledge and skills that pupils will need
7 in order to succeed in the information-based, global economy of
8 the 21st century. These skills shall not include personal behavioral
9 standards or skills, including, but not limited to, honesty,
10 sociability, ethics, or self-esteem.

11 (4) A statewide system that provides the results of testing in a
12 manner that reflects the degree to which pupils are achieving the
13 academically rigorous content and performance standards adopted
14 by the state board.

15 (5) The alignment of assessment with the statewide academically
16 rigorous content and performance standards adopted by the state
17 board.

18 (6) The active, ongoing involvement of parents, classroom
19 teachers, administrators, other educators, governing board members
20 of school districts, and the public in all phases of the design and
21 implementation of the statewide pupil assessment program.

22 (7) The development of a contract or contracts with a publisher
23 or publishers, after the approval of statewide academically rigorous
24 content standards by the state board, for the development of
25 performance standards and assessments of applied academic skills
26 designed to test pupils' knowledge of academic skills and abilities
27 to apply that knowledge and those skills in order to solve problems
28 and communicate.

29 (b) The Superintendent shall develop and annually update for
30 the Legislature a five-year cost projection, implementation plan,
31 and timetable for implementing the program described in
32 subdivision (a). The annual update shall be submitted on or before
33 March 1 of each year to the chairperson of the fiscal subcommittee
34 considering budget appropriations in each house. The update shall
35 explain any significant variations from the five-year cost projection
36 for the current year budget and the proposed budget.

37 (c) The Superintendent shall provide each school district with
38 guidelines for professional development that are designed to assist
39 classroom teachers to use the results of the assessments
40 administered pursuant to this chapter to modify instruction for the

1 purpose of improving pupil learning. These guidelines shall be
2 developed in consultation with classroom teachers and approved
3 by the state board before dissemination.

4 (d) The Superintendent and the state board shall consider
5 comments and recommendations from school districts and the
6 public in the development, adoption, and approval of assessment
7 instruments.

8 (e) The results of the achievement test administered pursuant
9 to Article 4 (commencing with Section 60640) shall be returned
10 to the school district within the period of time specified by the
11 state board.

12 (f) This section shall become operative on July 1, 2012.

13 ~~SEC. 6.~~

14 *SEC. 5.* Section 60605.6 of the Education Code is amended to
15 read:

16 60605.6. Subject to the availability of funds appropriated in
17 the annual Budget Act for this purpose, the Superintendent, upon
18 approval of the state board, shall contract for the development and
19 distribution of workbooks, as follows:

20 (a) One workbook to be distributed to all pupils in grade 10.
21 This workbook shall contain information on the proficiency levels
22 that must be demonstrated by pupils on the high school exit
23 examination described in Chapter 9 (commencing with Section
24 60850). The workbook also shall contain sample questions, with
25 explanations describing how these sample questions test pupil
26 knowledge of the language arts and mathematics content standards
27 adopted by the state board pursuant to Section 60605.

28 (b) Separate workbooks for each of grades 2 to 11, inclusive.
29 Each pupil in grades 2 to 11, inclusive, who is required to take the
30 achievement tests described in Section 60642.5 shall receive a
31 copy of the workbook designed for the same grade level in which
32 the pupil is enrolled. These workbooks shall contain material to
33 assist pupils and their parents with standards-based learning,
34 including the grade appropriate academic content standards adopted
35 by the state board pursuant to Section 60605 and sample questions
36 that require knowledge of these standards to answer. The
37 workbooks also shall describe how the sample questions test
38 knowledge of the state board adopted academic content standards.

39 (c) This section shall become inoperative on July 1, 2012, and,
40 as of January 1, 2013, is repealed, unless a later enacted statute,

1 that becomes operative on or before January 1, 2013, deletes or
2 extends the dates on which it becomes inoperative and is repealed.

3 ~~SEC. 7.~~

4 *SEC. 6.* Section 60605.6 is added to the Education Code, to
5 read:

6 60605.6. Subject to the availability of funds appropriated in
7 the annual Budget Act for this purpose, the Superintendent, upon
8 approval of the state board, shall contract for the development and
9 distribution of workbooks, as follows:

10 (a) One workbook to be distributed to all pupils in grade 10.
11 This workbook shall contain information on the proficiency levels
12 that must be demonstrated by pupils on the high school exit
13 examination described in Chapter 9 (commencing with Section
14 60850). The workbook also shall contain sample questions, with
15 explanations describing how these sample questions test pupil
16 knowledge of the language arts and mathematics content standards
17 adopted by the state board pursuant to Section 60605.

18 (b) Separate workbooks for each of grades 3 to 11, inclusive.
19 Each pupil in grades 3 to 11, inclusive, who is required to take the
20 achievement tests described in Section 60642.5 shall receive a
21 copy of the workbook designed for the same grade level in which
22 the pupil is enrolled. These workbooks shall contain material to
23 assist pupils and their parents with standards-based learning,
24 including the grade appropriate academic content standards adopted
25 by the state board pursuant to Section 60605 and sample questions
26 that require knowledge of these standards to answer. The
27 workbooks also shall describe how the sample questions test
28 knowledge of the state board adopted academic content standards.

29 (c) This section shall become operative on July 1, 2012.

30 ~~SEC. 8.~~

31 *SEC. 7.* Section 60640 of the Education Code is amended to
32 read:

33 60640. (a) There is hereby established the Standardized Testing
34 and Reporting Program, to be known as the STAR Program.

35 (b) From the funds available for that purpose, each school
36 district, charter school, and county office of education shall
37 administer to each of its pupils in grades 2 to 11, inclusive, the
38 standards-based achievement test provided for in Section 60642.5.
39 The state board shall establish a testing period to provide that all
40 schools administer these tests to pupils at approximately the same

1 time during the instructional year, except as necessary to ensure
2 test security and to meet the final filing date.

3 (c) The publisher and the school district shall provide two
4 makeup days for the testing of previously absent pupils within the
5 testing period established by the state board in subdivision (b).

6 (d) The governing board of the school district may administer
7 achievement tests in grades other than those required by
8 subdivision (b) as it deems appropriate.

9 (e) Pursuant to Section 1412(a)(17) of Title 20 of the United
10 States Code, individuals with exceptional needs, as defined in
11 Section 56026, shall be included in the testing requirement of
12 subdivision (b) with appropriate accommodations in administration,
13 where necessary, and those individuals with exceptional needs
14 who are unable to participate in the testing, even with
15 accommodations, shall be given an alternate assessment.

16 (f) (1) At the option of the school district, pupils with limited
17 English proficiency who are enrolled in any of grades 2 to 11,
18 inclusive, may take a second achievement test in their primary
19 language. Primary language tests administered pursuant to this
20 subdivision and subdivision (g) shall be subject to the requirements
21 of subdivision (a) of Section 60641. These primary language tests
22 shall produce individual pupil scores that are valid and reliable.

23 (2) Notwithstanding any other law, the state board shall
24 designate for use, as part of this program, a single primary language
25 test in each language for which a test is available for grades 2 to
26 11, inclusive, pursuant to the process used for designation of the
27 assessment chosen in the 1997–98 fiscal year, as specified in
28 Section 60643, as applicable.

29 (3) (A) The department shall use funds made available pursuant
30 to Title VI of the federal No Child Left Behind Act of 2001 (20
31 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget
32 Act for the purpose of developing and adopting primary language
33 assessments that are aligned to the state academic content
34 standards. Subject to the availability of funds, primary language
35 assessments shall be developed and adopted for reading/language
36 arts and mathematics in the dominant primary language of
37 limited-English-proficient pupils. The dominant primary language
38 shall be determined by the count in the annual language census of
39 the primary language of each limited-English-proficient pupil
40 enrolled in the California public schools.

1 (B) Once a dominant primary language assessment is available
2 for use for a specific grade level, it shall be administered in place
3 of the assessment designated pursuant to paragraph (1) for that
4 grade level.

5 (C) In choosing a contractor to develop a primary language
6 assessment the state board shall consider the criteria for choosing
7 a contractor or test publisher as specified by Section 60643, and
8 as specified by Section 60642.5, as applicable.

9 (D) Subject to the availability of funds, the assessments shall
10 be developed in grade order starting with the lowest grade subject
11 to the STAR Program.

12 (E) If the state board contracts for the development of primary
13 language assessments or test items to augment an existing
14 assessment, the state shall retain ownership rights to the assessment
15 and the test items. With the approval of the state board, the
16 department may license the test for use in other states subject to a
17 compensation agreement approved by the Department of Finance.

18 (F) On or before January 1, 2006, the department shall submit
19 to the Legislature a report on the development and implementation
20 of the initial primary language assessments and recommendations
21 on the development and implementation of future assessments and
22 funding requirements.

23 (g) A pupil identified as limited English proficient pursuant to
24 the administration of a test made available pursuant to Section
25 60810 who is enrolled in any of grades 2 to 11, inclusive, and who
26 either receives instruction in his or her primary language or has
27 been enrolled in a school in the United States for less than 12
28 months shall be required to take a test in his or her primary
29 language if a test is available.

30 (h) (1) The Superintendent shall apportion funds to school
31 districts to enable school districts to meet the requirements of
32 subdivisions (b), (e), (f), and (g).

33 (2) The state board annually shall establish the amount of
34 funding to be apportioned to school districts for each test
35 administered and annually shall establish the amount that each
36 publisher shall be paid for each test administered under the
37 agreements required pursuant to Section 60643. The amounts to
38 be paid to the publishers shall be determined by considering the
39 cost estimates submitted by each publisher each September and
40 the amount included in the annual Budget Act, and by making

1 allowance for the estimated costs to school districts for compliance
2 with the requirements of subdivisions (b), (e), (f), and (g).

3 (3) An adjustment to the amount of funding to be apportioned
4 per test shall not be valid without the approval of the Director of
5 Finance. A request for approval of an adjustment to the amount
6 of funding to be apportioned per test shall be submitted in writing
7 to the Director of Finance and the chairpersons of the fiscal
8 committees of both houses of the Legislature with accompanying
9 material justifying the proposed adjustment. The Director of
10 Finance is authorized to approve only those adjustments related
11 to activities required by statute. The Director of Finance shall
12 approve or disapprove the amount within 30 days of receipt of the
13 request and shall notify the chairpersons of the fiscal committees
14 of both houses of the Legislature of the decision.

15 (i) For purposes of making the computations required by Section
16 8 of Article XVI of the California Constitution, the appropriation
17 for the apportionments made pursuant to paragraph (1) of
18 subdivision (h), and the payments made to the publishers under
19 the contracts required pursuant to Section 60643 or subparagraph
20 (C) of paragraph (1) of subdivision (a) of Section 60605 between
21 the department and the contractor, are “General Fund revenues
22 appropriated for school districts,” as defined in subdivision (c) of
23 Section 41202, for the applicable fiscal year, and included within
24 the “total allocations to school districts and community college
25 districts from General Fund proceeds of taxes appropriated pursuant
26 to Article XIII B,” as defined in subdivision (e) of Section 41202,
27 for that fiscal year.

28 (j) As a condition to receiving an apportionment pursuant to
29 subdivision (h), a school district shall report to the Superintendent
30 all of the following:

31 (1) The number of pupils enrolled in the school district in grades
32 2 to 11, inclusive.

33 (2) The number of pupils to whom an achievement test was
34 administered in grades 2 to 11, inclusive, in the school district.

35 (3) The number of pupils in paragraph (1) who were exempted
36 from the test at the request of their parents or guardians.

37 (k) The Superintendent and the state board are authorized and
38 encouraged to assist postsecondary educational institutions to use
39 the assessment results of the California Standards Tests, including,

1 but not limited to, the augmented California Standards Tests, for
2 academic credit, placement, or admissions processes.

3 (l) The Superintendent, with the approval of the state board,
4 annually shall release to the public test items from the
5 standards-based achievement tests pursuant to Section 60642.5
6 administered in previous years. The minimum number of test items
7 released per year shall be equal to 25 percent of the total number
8 of test items on the test administered in the previous year.

9 (m) This section shall become inoperative on July 1, 2012, and,
10 as of January 1, 2013, is repealed, unless a later enacted statute,
11 that becomes operative on or before January 1, 2013, deletes or
12 extends the dates on which it becomes inoperative and is repealed.

13 ~~SEC. 9.~~

14 *SEC. 8.* Section 60640 is added to the Education Code, to read:
15 60640. (a) There is hereby established the Standardized Testing
16 and Reporting Program, to be known as the STAR Program.

17 (b) From the funds available for that purpose, each school
18 district, charter school, and county office of education shall
19 administer to each of its pupils in grades 3 to 11, inclusive, the
20 standards-based achievement test provided for in Section 60642.5.
21 The state board shall establish a testing period to provide that all
22 schools administer these tests to pupils at approximately the same
23 time during the instructional year, except as necessary to ensure
24 test security and to meet the final filing date.

25 (c) The publisher and the school district shall provide two
26 makeup days for the testing of previously absent pupils within the
27 testing period established by the state board in subdivision (b).

28 (d) The governing board of the school district may administer
29 achievement tests in grades other than those required by
30 subdivision (b) as it deems appropriate.

31 (e) Pursuant to Section 1412(a)(17) of Title 20 of the United
32 States Code, individuals with exceptional needs, as defined in
33 Section 56026, shall be included in the testing requirement of
34 subdivision (b) with appropriate accommodations in administration,
35 where necessary, and those individuals with exceptional needs
36 who are unable to participate in the testing, even with
37 accommodations, shall be given an alternate assessment.

38 (f) (1) At the option of the school district, pupils with limited
39 English proficiency who are enrolled in any of grades 3 to 11,
40 inclusive, may take a second achievement test in their primary

1 language. Primary language tests administered pursuant to this
2 subdivision and subdivision (g) shall be subject to the requirements
3 of subdivision (a) of Section 60641. These primary language tests
4 shall produce individual pupil scores that are valid and reliable.

5 (2) Notwithstanding any other law, the state board shall
6 designate for use, as part of this program, a single primary language
7 test in each language for which a test is available for grades 3 to
8 11, inclusive, pursuant to the process used for designation of the
9 assessment chosen in the 1997–98 fiscal year, as specified in
10 Section 60643, as applicable.

11 (3) (A) The department shall use funds made available pursuant
12 to Title VI of the federal No Child Left Behind Act of 2001 (20
13 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget
14 Act for the purpose of developing and adopting primary language
15 assessments that are aligned to the state academic content
16 standards. Subject to the availability of funds, primary language
17 assessments shall be developed and adopted for reading/language
18 arts and mathematics in the dominant primary language of
19 limited-English-proficient pupils. The dominant primary language
20 shall be determined by the count in the annual language census of
21 the primary language of each limited-English-proficient pupil
22 enrolled in the California public schools.

23 (B) Once a dominant primary language assessment is available
24 for use for a specific grade level, it shall be administered in place
25 of the assessment designated pursuant to paragraph (1) for that
26 grade level.

27 (C) In choosing a contractor to develop a primary language
28 assessment the state board shall consider the criteria for choosing
29 a contractor or test publisher as specified by Section 60643, and
30 as specified by Section 60642.5, as applicable.

31 (D) Subject to the availability of funds, the assessments shall
32 be developed in grade order starting with the lowest grade subject
33 to the STAR Program.

34 (E) If the state board contracts for the development of primary
35 language assessments or test items to augment an existing
36 assessment, the state shall retain ownership rights to the assessment
37 and the test items. With the approval of the state board, the
38 department may license the test for use in other states subject to a
39 compensation agreement approved by the Department of Finance.

1 (F) On or before January 1, 2006, the department shall submit
2 to the Legislature a report on the development and implementation
3 of the initial primary language assessments and recommendations
4 on the development and implementation of future assessments and
5 funding requirements.

6 (g) A pupil identified as limited English proficient pursuant to
7 the administration of a test made available pursuant to Section
8 60810 who is enrolled in any of grades 3 to 11, inclusive, and who
9 either receives instruction in his or her primary language or has
10 been enrolled in a school in the United States for less than 12
11 months shall be required to take a test in his or her primary
12 language if a test is available.

13 (h) (1) The Superintendent shall apportion funds to school
14 districts to enable school districts to meet the requirements of
15 subdivisions (b), (e), (f), and (g).

16 (2) The state board annually shall establish the amount of
17 funding to be apportioned to school districts for each test
18 administered and annually shall establish the amount that each
19 publisher shall be paid for each test administered under the
20 agreements required pursuant to Section 60643. The amounts to
21 be paid to the publishers shall be determined by considering the
22 cost estimates submitted by each publisher each September and
23 the amount included in the annual Budget Act, and by making
24 allowance for the estimated costs to school districts for compliance
25 with the requirements of subdivisions (b), (e), (f), and (g).

26 (3) An adjustment to the amount of funding to be apportioned
27 per test shall not be valid without the approval of the Director of
28 Finance. A request for approval of an adjustment to the amount
29 of funding to be apportioned per test shall be submitted in writing
30 to the Director of Finance and the chairpersons of the fiscal
31 committees of both houses of the Legislature with accompanying
32 material justifying the proposed adjustment. The Director of
33 Finance is authorized to approve only those adjustments related
34 to activities required by statute. The Director of Finance shall
35 approve or disapprove the amount within 30 days of receipt of the
36 request and shall notify the chairpersons of the fiscal committees
37 of both houses of the Legislature of the decision.

38 (i) For purposes of making the computations required by Section
39 8 of Article XVI of the California Constitution, the appropriation
40 for the apportionments made pursuant to paragraph (1) of

subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the Superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 3 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 3 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) The Superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the assessment results of the California Standards Tests, including, but not limited to, the augmented California Standards Tests, for academic credit, placement, or admissions processes.

(l) The Superintendent, with the approval of the state board, annually shall release to the public test items from the standards-based achievement tests pursuant to Section 60642.5 administered in previous years. The minimum number of test items released per year shall be equal to 25 percent of the total number of test items on the test administered in the previous year.

(m) This section shall become operative on July 1, 2012.

~~SEC. 10.~~

SEC. 9. Section 60642.5 of the Education Code is amended to read:

60642.5. (a) The Superintendent, with approval of the state board, shall provide for the development of an assessment instrument, to be called the California Standards Tests, that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the state board. These

standards-based achievement tests shall contain the subject areas specified in paragraph (3) of subdivision (a) of Section 60603 for grades 2 to 8, inclusive, and shall include an assessment in history/social science in at least one elementary or middle school grade level selected by the state board and science in at least one elementary or middle school grade level selected by the state board, and the core curriculum areas specified in paragraph (5) of subdivision (a) of Section 60603 for grades 9 to 11, inclusive, except that history-social science shall not be included in the grade 9 assessment unless the state board adopts academic content standards for a grade 9 history-social science course, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the California Standards Tests, the state board shall consider each of the following criteria:

(1) The ability of the contractor to produce valid, reliable individual pupil scores.

(2) The ability of the contractor to report results pursuant to subdivision (a) of Section 60643 by August 8.

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the state board. This criterion shall include the ability of the contractor to implement a process to establish and maintain alignment between the test items and the standards.

(4) The per pupil cost estimates of developing and, if appropriate, administering the proposed assessment with a system to facilitate the determination of future per pupil cost determinations.

(5) The procedures of the contractor to ensure the security and integrity of test questions and materials.

(6) The experience of the contractor in successfully conducting testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

(c) The standards-based achievement tests may use items from other tests.

(d) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 11.~~

SEC. 10. Section 60642.5 is added to the Education Code, to read:

60642.5. (a) The Superintendent, with approval of the state board, shall provide for the development of an assessment instrument, to be called the California Standards Tests, that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the state board. These standards-based achievement tests shall contain the subject areas specified in paragraph (3) of subdivision (a) of Section 60603 for grades 3 to 8, inclusive, and shall include an assessment in history/social science in at least one elementary or middle school grade level selected by the state board and science in at least one elementary or middle school grade level selected by the state board, and the core curriculum areas specified in paragraph (5) of subdivision (a) of Section 60603 for grades 9 to 11, inclusive, except that history-social science shall not be included in the grade 9 assessment unless the state board adopts academic content standards for a grade 9 history-social science course, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the California Standards Tests, the state board shall consider each of the following criteria:

(1) The ability of the contractor to produce valid, reliable individual pupil scores.

(2) The ability of the contractor to report results pursuant to subdivision (a) of Section 60643 by August 8.

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the state board. This criterion shall include the ability of the

1 contractor to implement a process to establish and maintain
2 alignment between the test items and the standards.

3 (4) The per pupil cost estimates of developing and, if
4 appropriate, administering the proposed assessment with a system
5 to facilitate the determination of future per pupil cost
6 determinations.

7 (5) The procedures of the contractor to ensure the security and
8 integrity of test questions and materials.

9 (6) The experience of the contractor in successfully conducting
10 testing programs adopted and administered by other states. For
11 experience to be considered, the number of grades and pupils tested
12 shall be provided.

13 (c) The standards-based achievement tests may use items from
14 other tests.

15 (d) This section shall become operative on July 1, 2012.

16 ~~SEC. 12.~~

17 *SEC. 11.* Section 60643 of the Education Code is amended to
18 read:

19 60643. (a) To be eligible for consideration under Section
20 60642.5 by the state board, test publishers shall agree in writing
21 each year to meet the following requirements, as applicable, if
22 selected:

23 (1) Enter into an agreement, pursuant to subdivision (e) or (f),
24 with the department by October 15 of that year.

25 (2) Align the standards-based achievement test provided for in
26 Section 60642.5 to the academically rigorous content and
27 performance standards adopted by the state board.

28 (3) Comply with subdivisions (c) and (d) of Section 60645.

29 (4) Provide valid and reliable individual pupil scores to parents
30 or guardians, teachers, and school administrators.

31 (5) Provide valid and reliable aggregate scores to school districts
32 and county boards of education in all of the following forms and
33 formats:

34 (A) Grade level.

35 (B) School level.

36 (C) District level.

37 (D) Countywide.

38 (E) Statewide.

39 (F) Comparison of statewide scores relative to other states.

1 (6) Provide disaggregated scores, based on
2 limited-English-proficient status and nonlimited-English-proficient
3 status. For purposes of this section, pupils with
4 “nonlimited-English-proficient status” shall include the total of
5 those pupils who are English-only pupils, fluent-English-proficient
6 pupils, and redesignated fluent-English-proficient pupils. These
7 scores shall be provided to school districts and county boards of
8 education in the same forms and formats listed in paragraph (5).

9 (7) Provide disaggregated scores by pupil gender and ethnicity
10 and provide disaggregated scores based on whether pupils are
11 economically disadvantaged or not. These disaggregated scores
12 shall be in the same forms and formats as listed in paragraph (5).
13 In any one year, the disaggregation shall entail information already
14 being collected by school districts, county offices of education, or
15 charter schools.

16 (8) Provide disaggregated scores for pupils who have
17 individualized education programs and have enrolled in special
18 education, to the extent required by federal law. These scores shall
19 be provided in the same forms and formats listed in paragraph (5).
20 This section shall not be construed to exclude the scores of special
21 education pupils from any state or federal accountability system.

22 (9) Provide information listed in paragraphs (5), (6), (7), and
23 (8) to the department and the state board in the medium requested
24 by each entity, respectively.

25 (b) It is the intent of the Legislature that the publisher work with
26 the Superintendent and the state board in developing a methodology
27 to disaggregate statewide scores as required in paragraphs (6) and
28 (7) of subdivision (a), and in determining which variable indicated
29 on the STAR testing document shall serve as a proxy for
30 “economically disadvantaged” status pursuant to paragraph (7) of
31 subdivision (a).

32 (c) Access to information about individual pupils or their
33 families shall be granted to the publisher only for purposes of
34 correctly associating test results with the pupils who produced
35 those results or for reporting and disaggregating test results as
36 required by this section. School districts are prohibited from
37 excluding a pupil from the test if a parent or parents decline to
38 disclose income. This chapter does not abridge or deny rights to
39 confidentiality contained in the federal Family Educational Rights
40 and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable

1 state and federal law that protect the confidentiality of information
2 collected by educational institutions.

3 (d) Notwithstanding any other law, the publisher of the
4 standards-based achievement test provided for in Section 60642.5
5 or any contractor under subdivision (f) shall comply with all of
6 the conditions and requirements enumerated in subdivision (a), as
7 applicable, to the satisfaction of the state board.

8 (e) (1) A publisher shall not provide a test described in Section
9 60642.5 or 60650 or in subdivision (f) of Section 60640 for use
10 in California public schools, unless the publisher enters into a
11 written contract with the department as set forth in this subdivision.

12 (2) The department shall develop, and the state board shall
13 approve, a contract to be entered into with a publisher pursuant to
14 paragraph (1). The department may develop the contract through
15 negotiations with the publisher.

16 (3) For purposes of the contracts authorized pursuant to this
17 subdivision, the department is exempt from the requirements of
18 Part 2 (commencing with Section 10100) of Division 2 of the
19 Public Contract Code and from the requirements of Article 6
20 (commencing with Section 999) of Chapter 6 of Division 4 of the
21 Military and Veterans Code.

22 (4) The contracts shall include provisions for progress payments
23 to the publisher for work performed or costs incurred in the
24 performance of the contract. Not less than 10 percent of the amount
25 budgeted for each separate and distinct component task provided
26 for in each contract shall be withheld pending final completion of
27 all component tasks by that publisher. The total amount withheld
28 pending final completion shall not exceed 10 percent of the total
29 contract price.

30 (5) The contracts shall require liquidated damages to be paid
31 by the publisher in the amount of up to 10 percent of the total cost
32 of the contract for any component task that the publisher through
33 its own fault or that of its subcontractors fails to substantially
34 perform by the date specified in the agreement.

35 (6) The contracts shall establish the process and criteria by
36 which the successful completion of each component task shall be
37 recommended by the department and approved by the state board.

38 (7) The publishers shall submit, as part of the contract
39 negotiation process, a proposed budget and invoice schedule, that
40 includes a detailed listing of the costs for each component task

1 and the expected date of the invoice for each completed component
2 task.

3 (8) The contracts shall specify the following component tasks,
4 as applicable, that are separate and distinct:

5 (A) Development of new tests or test items as required by
6 paragraph (2) of subdivision (a).

7 (B) Test materials production or publication.

8 (C) Delivery of test materials to school districts.

9 (D) Test processing, scoring, and analyses.

10 (E) Reporting of test results to the school districts, including,
11 but not limited to, all reports specified in this section.

12 (F) Reporting of test results to the department, including, but
13 not limited to, the electronic files required pursuant to this section.

14 (G) All other analyses or reports required by the Superintendent
15 to meet the requirements of state and federal law and set forth in
16 the agreement.

17 (9) The contracts shall specify the specific reports and data files,
18 if any, that are to be provided to school districts by the publisher
19 and the number of copies of each report or file to be provided.

20 (10) The contracts shall specify the means by which any delivery
21 date for materials to each school district shall be verified by the
22 publisher and the school district.

23 (11) School districts may negotiate a separate agreement with
24 the publisher for any additional materials or services not within
25 the contracts specified in this subdivision, including, but not limited
26 to, the administration of the tests to pupils in grade levels other
27 than grades 2 to 11, inclusive. Any separate agreement is not within
28 the scope of the contract specified in this subdivision.

29 (f) The department, with approval of the state board, may enter
30 into a separate contract for the development or administration of
31 a test authorized pursuant to this part, including, but not limited
32 to, item development, coordination of tests, assemblage of tests
33 or test items, scoring, or reporting. The liquidated damages
34 provision set forth in paragraph (5) of subdivision (e) shall apply
35 to a contract entered into pursuant to this subdivision.

36 (g) This section shall become inoperative on July 1, 2012, and,
37 as of January 1, 2013, is repealed, unless a later enacted statute,
38 that becomes operative on or before January 1, 2013, deletes or
39 extends the dates on which it becomes inoperative and is repealed.

1 ~~SEC. 13.~~

2 *SEC. 12.* Section 60643 is added to the Education Code, to
3 read:

4 60643. (a) To be eligible for consideration under Section
5 60642.5 by the state board, test publishers shall agree in writing
6 each year to meet the following requirements, as applicable, if
7 selected:

8 (1) Enter into an agreement, pursuant to subdivision (e) or (f),
9 with the department by October 15 of that year.

10 (2) Align the standards-based achievement test provided for in
11 Section 60642.5 to the academically rigorous content and
12 performance standards adopted by the state board.

13 (3) Comply with subdivisions (c) and (d) of Section 60645.

14 (4) Provide valid and reliable individual pupil scores to parents
15 or guardians, teachers, and school administrators.

16 (5) Provide valid and reliable aggregate scores to school districts
17 and county boards of education in all of the following forms and
18 formats:

19 (A) Grade level.

20 (B) School level.

21 (C) District level.

22 (D) Countywide.

23 (E) Statewide.

24 (F) Comparison of statewide scores relative to other states.

25 (6) Provide disaggregated scores, based on
26 limited-English-proficient status and nonlimited-English-proficient
27 status. For purposes of this section, pupils with
28 “nonlimited-English-proficient status” shall include the total of
29 those pupils who are English-only pupils, fluent-English-proficient
30 pupils, and redesignated fluent-English-proficient pupils. These
31 scores shall be provided to school districts and county boards of
32 education in the same forms and formats listed in paragraph (5).

33 (7) Provide disaggregated scores by pupil gender and ethnicity
34 and provide disaggregated scores based on whether pupils are
35 economically disadvantaged or not. These disaggregated scores
36 shall be in the same forms and formats as listed in paragraph (5).
37 In any one year, the disaggregation shall entail information already
38 being collected by school districts, county offices of education, or
39 charter schools.

1 (8) Provide disaggregated scores for pupils who have
2 individualized education programs and have enrolled in special
3 education, to the extent required by federal law. These scores shall
4 be provided in the same forms and formats listed in paragraph (5).
5 This section shall not be construed to exclude the scores of special
6 education pupils from any state or federal accountability system.

7 (9) Provide information listed in paragraphs (5), (6), (7), and
8 (8) to the department and the state board in the medium requested
9 by each entity, respectively.

10 (b) It is the intent of the Legislature that the publisher work with
11 the Superintendent and the state board in developing a methodology
12 to disaggregate statewide scores as required in paragraphs (6) and
13 (7) of subdivision (a), and in determining which variable indicated
14 on the STAR testing document shall serve as a proxy for
15 “economically disadvantaged” status pursuant to paragraph (7) of
16 subdivision (a).

17 (c) Access to information about individual pupils or their
18 families shall be granted to the publisher only for purposes of
19 correctly associating test results with the pupils who produced
20 those results or for reporting and disaggregating test results as
21 required by this section. School districts are prohibited from
22 excluding a pupil from the test if a parent or parents decline to
23 disclose income. This chapter does not abridge or deny rights to
24 confidentiality contained in the federal Family Educational Rights
25 and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable
26 state and federal law that protect the confidentiality of information
27 collected by educational institutions.

28 (d) Notwithstanding any other law, the publisher of the
29 standards-based achievement test provided for in Section 60642.5
30 or any contractor under subdivision (f) shall comply with all of
31 the conditions and requirements enumerated in subdivision (a), as
32 applicable, to the satisfaction of the state board.

33 (e) (1) A publisher shall not provide a test described in Section
34 60642.5 or 60650 or in subdivision (f) of Section 60640 for use
35 in California public schools, unless the publisher enters into a
36 written contract with the department as set forth in this subdivision.

37 (2) The department shall develop, and the state board shall
38 approve, a contract to be entered into with a publisher pursuant to
39 paragraph (1). The department may develop the contract through
40 negotiations with the publisher.

(3) For purposes of the contracts authorized pursuant to this subdivision, the department is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(4) The contracts shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contracts shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of the contract for any component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contracts shall establish the process and criteria by which the successful completion of each component task shall be recommended by the department and approved by the state board.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The contracts shall specify the following component tasks, as applicable, that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (2) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.

(F) Reporting of test results to the department, including, but not limited to, the electronic files required pursuant to this section.

1 (G) All other analyses or reports required by the Superintendent
2 to meet the requirements of state and federal law and set forth in
3 the agreement.

4 (9) The contracts shall specify the specific reports and data files,
5 if any, that are to be provided to school districts by the publisher
6 and the number of copies of each report or file to be provided.

7 (10) The contracts shall specify the means by which any delivery
8 date for materials to each school district shall be verified by the
9 publisher and the school district.

10 (11) School districts may negotiate a separate agreement with
11 the publisher for any additional materials or services not within
12 the contracts specified in this subdivision, including, but not limited
13 to, the administration of the tests to pupils in grade levels other
14 than grades 3 to 11, inclusive. Any separate agreement is not within
15 the scope of the contract specified in this subdivision.

16 (f) The department, with approval of the state board, may enter
17 into a separate contract for the development or administration of
18 a test authorized pursuant to this part, including, but not limited
19 to, item development, coordination of tests, assemblage of tests
20 or test items, scoring, or reporting. The liquidated damages
21 provision set forth in paragraph (5) of subdivision (e) shall apply
22 to a contract entered into pursuant to this subdivision.

23 (g) This section shall become operative on July 1, 2012.

24 ~~SEC. 14.~~

25 *SEC. 13.* Section 60643.1 of the Education Code is amended
26 to read:

27 60643.1. (a) (1) The test publisher designated by the state
28 board pursuant to Section 60642 shall make available a reading
29 list on the Internet by June 1 of the applicable school year. The
30 reading list shall include an index that correlates ranges of pupil
31 reading scores on the English language arts portion of the
32 achievement test designated pursuant to Section 60642 to titles of
33 materials that would be suitable for pupils in each of grades 2 to
34 11, inclusive, to read in order to improve their reading skills. This
35 reading list shall include titles of books that allow a pupil to
36 practice reading at his or her current reading level and that will
37 assist the pupil in achieving a higher level of proficiency. To the
38 extent possible, the index also shall include information related to
39 the subject matter of each title. At a minimum, the reading list also

1 shall categorize titles by subject matter and identify age-appropriate
2 distinctions in the list.

3 (2) The test publisher, in each school year, shall make available
4 for purchase by school districts a report that provides a numerical
5 distribution of the reading scores of all pupils in California who
6 took the achievement test designated pursuant to Section 60642.

7 (3) The test publisher, in each school year, shall make available
8 for purchase by school districts reading lists that can be distributed
9 to pupils based on a pupil's age and the ranges of scores on the
10 English language arts portion of the achievement test designated
11 pursuant to Section 60642.

12 (4) The requirements of this subdivision shall become operative
13 only upon a determination by the Director of Finance that funds
14 are available to make an adjustment pursuant to subdivision (h)
15 of Section 60640.

16 (b) The state board and the Superintendent jointly shall certify
17 that the process used by the publisher to determine the reading
18 levels of the corresponding reading list pursuant to paragraph (1)
19 of subdivision (a) meets the following criteria:

20 (1) The process is educationally valid.

21 (2) The process results in a reading list for each reading span
22 that provides titles at the pupil's current reading level and the next
23 higher level for challenging practice.

24 (3) The process results in a selection from the universe of titles
25 from the list developed pursuant to subdivision (a) that matches
26 each reading level.

27 (4) The process is unbiased in the selection of publishers' titles
28 from the legal compliance list.

29 (c) The titles listed at each reading level range posted on the
30 Internet and the reading lists made available to school districts
31 pursuant to subdivision (a), at a minimum, shall include all relevant
32 literature materials approved as of September 1, 1999, as being
33 legally compliant pursuant to Article 3 (commencing with Section
34 60040) of Chapter 1 of Part 33, and the titles listed in all of the
35 content area reading and literature lists that are developed and
36 published by the department and that have been determined by the
37 department to meet the relevant reading level as certified pursuant
38 to subdivision (b).

39 (d) By imposing the requirements of this section on publishers,
40 it is not the intent of the Legislature to unfairly disadvantage any

1 publisher who has otherwise met the requirements of this section
2 or of Article 3 (commencing with Section 60040) of Chapter 1 of
3 Part 33.

4 (e) This section shall become inoperative on July 1, 2012, and,
5 as of January 1, 2013, is repealed, unless a later enacted statute,
6 that becomes operative on or before January 1, 2013, deletes or
7 extends the dates on which it becomes inoperative and is repealed.

8 ~~SEC. 15.~~

9 *SEC. 14.* Section 60643.1 is added to the Education Code, to
10 read:

11 60643.1. (a) (1) The test publisher designated by the state
12 board pursuant to Section 60642 shall make available a reading
13 list on the Internet by June 1 of the applicable school year. The
14 reading list shall include an index that correlates ranges of pupil
15 reading scores on the English language arts portion of the
16 achievement test designated pursuant to Section 60642 to titles of
17 materials that would be suitable for pupils in each of grades 3 to
18 11, inclusive, to read in order to improve their reading skills. This
19 reading list shall include titles of books that allow a pupil to
20 practice reading at his or her current reading level and that will
21 assist the pupil in achieving a higher level of proficiency. To the
22 extent possible, the index also shall include information related to
23 the subject matter of each title. At a minimum, the reading list also
24 shall categorize titles by subject matter and identify age-appropriate
25 distinctions in the list.

26 (2) The test publisher, in each school year, shall make available
27 for purchase by school districts a report that provides a numerical
28 distribution of the reading scores of all pupils in California who
29 took the achievement test designated pursuant to Section 60642.

30 (3) The test publisher, in each school year, shall make available
31 for purchase by school districts reading lists that can be distributed
32 to pupils based on a pupil's age and the ranges of scores on the
33 English language arts portion of the achievement test designated
34 pursuant to Section 60642.

35 (4) The requirements of this subdivision shall become operative
36 only upon a determination by the Director of Finance that funds
37 are available to make an adjustment pursuant to subdivision (h)
38 of Section 60640.

39 (b) The state board and the Superintendent jointly shall certify
40 that the process used by the publisher to determine the reading

1 levels of the corresponding reading list pursuant to paragraph (1)
2 of subdivision (a) meets the following criteria:

3 (1) The process is educationally valid.

4 (2) The process results in a reading list for each reading span
5 that provides titles at the pupil's current reading level and the next
6 higher level for challenging practice.

7 (3) The process results in a selection from the universe of titles
8 from the list developed pursuant to subdivision (a) that matches
9 each reading level.

10 (4) The process is unbiased in the selection of publishers' titles
11 from the legal compliance list.

12 (c) The titles listed at each reading level range posted on the
13 Internet and the reading lists made available to school districts
14 pursuant to subdivision (a), at a minimum, shall include all relevant
15 literature materials approved as of September 1, 1999, as being
16 legally compliant pursuant to Article 3 (commencing with Section
17 60040) of Chapter 1 of Part 33, and the titles listed in all of the
18 content area reading and literature lists that are developed and
19 published by the department and that have been determined by the
20 department to meet the relevant reading level as certified pursuant
21 to subdivision (b).

22 (d) By imposing the requirements of this section on publishers,
23 it is not the intent of the Legislature to unfairly disadvantage any
24 publisher who has otherwise met the requirements of this section
25 or of Article 3 (commencing with Section 60040) of Chapter 1 of
26 Part 33.

27 (e) This section shall become operative on July 1, 2012.

28 ~~SEC. 16.~~

29 *SEC. 15.* Section 60644 is added to the Education Code, to
30 read:

31 60644. (a) By July 1, 2014, the department shall ~~develop at~~
32 ~~least three~~ *identify and make available to school districts*
33 *information regarding existing* assessments in language arts and
34 mathematics that are appropriate for pupils in grade 2 for diagnostic
35 use by classroom teachers. The purpose of these assessments shall
36 be to aid teachers and to gain information about the developing
37 language arts and computational skills of pupils in grade 2. ~~If the~~
38 ~~department determines that suitable diagnostic assessments exist,~~
39 ~~it may select those assessments instead of developing its own~~
40 ~~assessments.~~

1 ~~(b) The department shall make the assessments developed or~~
2 ~~selected pursuant to this section available to school districts~~
3 ~~maintaining grade 2.~~

4 ~~(e)~~

5 ~~(b) This section shall be implemented from the savings realized~~
6 ~~from the elimination of the grade 2 standards-based achievement~~
7 ~~testing pursuant to Section 60640. Savings realized in the initial~~
8 ~~three years after the elimination of the grade 2 standards-based~~
9 ~~achievement testing pursuant to Section 60640 shall be available~~
10 ~~for appropriation to the department for the development or selection~~
11 ~~of assessments. Savings realized in the subsequent years shall be~~
12 ~~available for allocation to school districts for administration of the~~
13 ~~assessments on a per pupil basis.~~